

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

UNITED STATES OF AMERICA	)	
	)	CR-09-012-H-CCL
Plaintiff,	)	
	)	CV 20-76-H-CCL
vs.	)	
	)	Order
ANDREW THOMAS SWAGER,	)	
	)	
Defendant.	)	

Defendant Andrew Thomas Swager moves to vacate the sentence imposed by the Court on October 1, 2020, pursuant to 28 U.S.C. § 2255, on the grounds that his counsel provided ineffective assistance. (Doc. 262). Defendant was represented at the October 1, 2020, revocation hearing by Assistant Federal Defender Joslyn Hunt. Ms. Hunt timely filed a notice of appeal on behalf of her client. (Doc. 261).

In the interest of judicial economy, this Court will not consider Defendant's § 2255 motion while he is pursuing a direct appeal from the revocation proceeding. *See United States v. Pirro*, 104 F.3d 297, 299 (9<sup>th</sup> Cir. 1997).


Accordingly,

IT IS HEREBY ORDERED that Defendant's motion to vacate his sentence (Doc. 262) is DENIED without prejudice.

The record before the Court, even when considered in the light most favorable to Defendant, does not meet the standard required for a certificate of appealability because Defendant will be free to file a § 2255 motion once he has completed his direct appeal. A certificate of appealability is therefore **DENIED**.

The Clerk of Court is directed to close CV 20-76-H-CCL by entering judgment dismissing the petition without prejudice.

Dated this 29<sup>th</sup> day of October, 2020.

  
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CHARLES C. LOVELL  
SENIOR UNITED STATES DISTRICT JUDGE